



Virginia  
Regulatory  
Town Hall

## Exempt Action Final Regulation Agency Background Document

<b>Agency Name:</b>	Virginia Waste Management Board
<b>VAC Chapter Number:</b>	9 VAC 20-60
<b>Regulation Title:</b>	Hazardous Waste Management Regulations, Applicability of incorporated references based on the dates on which they became effective.
<b>Action Title:</b>	Amendment 15 C
<b>Date:</b>	July 11, 2000

Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their regulations in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

This agency background document may be used for actions exempt pursuant to § 9-6.14:4.1(C) at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar at the proposed stage.

In addition, agency actions exempt pursuant to § 9-6.14:4.1(B) of the APA are not subject to the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and therefore are not subject to publication. Please refer to the *Virginia Register Form, Style and Procedure Manual* for more information.

### Summary

*Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation, instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Amendment 14 to the Hazardous Waste Management Regulations, 9 VAC 20-60-10 *et seq.*, included requirements in the form of incorporated federal regulatory text at Title 40 of the Code

of Federal Regulations. The incorporated text as it existed July 1, 1995, was specified as that incorporated; however, certain amendments contained in 9 Federal Register issues prior to that date were specifically cited as not being incorporated. Amendment 15 C addresses only 9 VAC 20-60-18, the section making the specification of the date of incorporated text. This section is altered by striking the previous prescribed date and citations of exceptions. A new date of July 1, 2000, replaces the struck material, thus making it the new date of reference of all incorporated federal regulatory text.

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Amendment 15C to the Hazardous Waste Management Regulations,  
9 VAC 20-60-10 et seq., Changes in Federal Regulations Since  
Amendment 14 through July 1, 2000

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FR Promulgation Date/ CFR Sections Affected/ Substance of Amendments

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January 3, 1995/ 268/ Universal Treatment Standards re Land Disposal Restrictions, table revisions, etc.

January 13, 1995/260/ Revises incorporation by reference citation of SW-846, Third Edition, A Test Methods for Evaluation Solid Waste, Physical/Chemical Methods, to include changes through January 4, 1994 (through Update IIA).

February 9, 1995, April 17, 1995, May 12, 1995/ 261,271/ Listings and exemptions of certain carbamate chemicals production wastes (U and K lists).

April 4, 1995/ 260/ Revises incorporation by reference citation of SW-846, Third Edition, A Test Methods for Evaluation Solid Waste, Physical/Chemical Methods, to include changes through April 4, 1995 (through Update IIB).

June 29, 1995/ 261,266,270,271/ Housekeeping changes related to adoption errors and obsolete provisions.

July 11, 1995/ 264,265,271/ Adds additional test method related to rules that prohibit liquids in landfills.

December 11, 1995/ 124,270/ New rules about the public participation process in the permitting of storage, treatment and disposal facilities and for test burns at incinerators and combustion facilities.

March 26, 1996/ 261/ Correction of adoption error in the exclusion rules for recovered oil, which is recycled.

April 8, 1996 (2), April 30, 1996, June 28, 1996, July 10, 1996, August 26, 1996,

February 17, 1997/ 268/ Rules related to Phase III of the Land Disposal Restriction and treatment standards concerning carbamate pesticide production wastes, primary aluminum production wastes, characteristic wastes, listed wastes, and wastes that are diluted.

April 12, 1996/ 261,262,263,264,265,266,273/ Identifies import and export wastes subject to the graduated system of controls under the Organization for Economic Cooperation and Development.

July 1, 1996/ 261,271/ Revises rules for disposal of wastes from conditionally exempt small quantity generators.

December 6, 1994, May 19, 1995, September 29, 1995, November 13, 1995, February 9, 1996,

June 5, 1996, November 23, 1996/ 260,261,264,265,270,271/ Add air standards for the control of organic emissions from tanks, surface impoundments, containers and miscellaneous units, including during accumulation of waste on-site.

January 14, 1997/ 268/ Extends for six (6) months the national capacity variance (under Phase III of the Land Disposal Restrictions) for spent potliners for primary aluminum production.

February 12, 1997/ 260,261,262,264,265,266,270/ Military Munitions Rule. Identifies when conventional and chemical military munitions become a hazardous waste, provides rules for the safe storage and transport of such waste, amends rules regarding emergency responses involving munitions and explosives, and exempts generators and transporters from manifest requirements on right-of-ways on or along the border of contiguous properties under the control of the same person.

May 12, 1997/ 261,268,271/ Land Disposal Restrictions Phase IV. Establishes treatment standards under the land disposal restrictions for waste from wood preserving operations, revises record keeping related to land disposal restrictions, regulates polymerizations as a treatment alternative, clarifies de minimis amounts exemption of characteristic wastewaters, and excludes processed circuit boards and scrap metal from regulation as hazardous wastes.

June 13, 1997/ 260,264,265,266/ Revises incorporation by reference citation of SW-846, Third Edition, A Test Methods for Evaluation Solid Waste, Physical/Chemical Methods, to include changes through January 13, 1997 (through Update III).

June 17, 1997/ 261,268,271/ Amends and withdraws certain rules related to listing of carbamate wastes.

July 14, 1997/ 268/ Extends for three (3) months the national capacity variance (under Phase III of the Land Disposal Restrictions) for spent potliners for primary aluminum production.

August 28, 1997/ 268,271/ One year extension of alternate treatment standard for carbamate under the land disposal restrictions (Aug. 26, 1997 to Aug. 26, 1998).

December 5, 1997/ 268/ Clarifies the rules for authorization of variances from the treatment standards of the land disposal restriction regulations. Incorporates rule requiring public participation in site specific variance considerations.

December 8, 1997/ 264,265,270/ Amends and clarifies the air standards for the control of organic emissions from tanks, surface impoundments, and container.

April 15, 1998/ 262/ Excludes from regulation as hazardous waste the condensates derived from the overhead gases from kraft mill steam strippers under specified conditions.

May 4, 1998, June 29, 1998/ 261,268,271/ Adds specific organobromine production wastes to list of hazardous wastes and lists land disposal treatment standards for those wastes.

May 6, 1998, July 14, 1998/ 261,279/ Corrects and adopts rules related to the management standards of used oil contaminated with PCB's and other used oil.

May 26, 1998, June 8, 1998/ 261,266,268,271/ Adopts treatment standards under the land disposal restrictions for metal wastes, mineral processing waste and twelve metal constituents. Adopts land disposal prohibition and treatment standards for mineral processing waste that are ignitable, corrosive or reactive. Amends the definition of when secondary materials being recycled is solid waste to exclude certain mineral processing waste. Amends the definition of which wastes fall under the Beville exemption. Adopts treatment standards under the land disposal restrictions for contaminated soils as waste. Adds corrections and clarifying provisions to the land disposal restrictions

June 19, 1998/ 262,270/ Excludes from regulation as solid waste those fuels produced from a hazardous waste which is comparable to some currently used fossil fuels. Adds provisions to make it easier for existing facilities to make changes to their existing permit.

August 6, 1998/ 261,266,268,271/ Lists four petroleum refining process wastes as hazardous (K169-K172). The wastes are subject to stringent management and treatment standards and emergency notification requirements. The rule excludes certain recycled secondary materials from the definition of solid waste. The materials include both oil-bearing residuals from petroleum refineries and oil from associated petrochemical facilities, when they are inserted into the refining process; and spent caustic from liquid treating operations when used as a feedstock to make certain chemical products. The rule clarifies an existing exclusion for recovered oil from certain petroleum industry sources. Finally, this rule applies the universal treatment standards to the petroleum refining wastes.

October 9, 1998/ 261,266,268,271/ EPA changed the effective date of certain portions of this rule to be consistent with sections 801 and 808 of the Congressional Review Act

August 31, 1998/ 268/ An amendment to the final rule, published on May 26, 1998 (63 FR 28556), which, in part, amended the Land Disposal Restriction (LDR) treatment standards for metal-bearing hazardous wastes which exhibit the characteristic of toxicity. The rule is amended only insofar as it applies to zinc micronutrient fertilizers which are produced from these toxicity characteristic wastes.

August 26, 1998/ 268/ Revises the waste treatment standards applicable to 40 waste constituents associated with the production of carbamate wastes. The rule sets final alternative treatment standards for seven specific carbamate waste constituents for which there are no available analytical standards. This action extends indefinitely the alternative treatment standards for the seven hazardous waste constituents and deletes the treatment standard for one additional constituent for which available analytical methods have not been shown to achieve reliable measurements. This rule also deletes these eight waste constituents as underlying hazardous constituents. In addition, because the temporary alternative standards for 40 carbamate waste constituents expire automatically on August 26, 1998, the rule also amends the Code of Federal Regulations to clarify that numerical treatment standards for these 32 carbamate waste constituents will once again be effective.

August 28, 1998/ 268/ This rule extends the compliance date until November 26, 1998 for a limited portion of the Phase IV Final Rule (63 FR 28556). The Phase IV Final Rule amended the Land Disposal Restriction treatment standards for metal-bearing hazardous wastes exhibiting the toxicity characteristic. This action extends the date for treatment standards only for secondary lead slags exhibiting the toxicity characteristic for one or more metals that are generated from thermal recovery of lead-bearing wastes (principally batteries).

September 24, 1998/ 268,271/ Treatment standards for spent potliners from primary aluminum reduction (EPA hazardous waste: K088) under the Land Disposal Restrictions (LDR) program. Spent potliners will be prohibited from land disposal unless the wastes have been treated in compliance with the numerical standards contained in this rule.

October 22, 1998/ 264,265,270,271/ Modifying the requirement for a post-closure permit, to allow for the use of a variety of authorities to impose requirements on non-permitted land disposal units requiring post-closure care. As a result, regulators have the flexibility to use alternate mechanisms under a variety of authorities to address post-closure care requirements, based on the particular needs at the facility. The rule also amends the regulations governing closure of land-based units that have released hazardous constituents, to allow certain regulated units where releases may have mingled with releases from solid waste management units to be addressed through the corrective action program. This will provide regulators the discretion to use corrective action requirements, rather than closure requirements, to address the closure of these regulated units. Finally, the rule specifies the Part B information submission requirements for facilities that receive post-closure permits.

November 30, 1998/ 260,261,264,265,268,270,271/ Streamlining permitting for treatment, storage and disposal of remediation wastes managed at cleanup sites: 1) make permits faster and easier to obtain, 2) provide that obtaining these permits will not subject the owner/operator to facility-wide corrective action at remediation-only facilities, and 3) allow the use of Remediation Action Plans (RAPs) as an alternative to traditional RCRA permits. Also finalizes regulations regarding use of staging piles during cleanup and providing an exclusion for dredged materials managed under appropriate Clean Water Act or Marine Protection Research and Sanctuaries Act permits. In addition, this rule expands the use of Corrective Action Management Units and Temporary Unit to include implementing clean up remedies at permitted facilities that are not subject to 40 CFR 264.101.

December 24, 1998/ 266,273/ Corrects errors that appeared in the May 11, 1995 Universal Waste Rule (60 FR 25492; Revision Checklists 142A-E).

January 21, 1999/ 262,264,265/ Amendments clarify certain regulatory text and reinstate certain regulatory provisions that were previously contained in the rules and later inadvertently removed re: standards to reduce organic air emissions from certain hazardous waste management activities to levels that are protective of human health and the environment (December 6, 1994 amended by the December 8, 1997).

February 11, 1999/ 261/ Temporarily deferring landfill leachate and landfill gas condensate derived from previously disposed wastes that now meet the listing descriptions of one or more of the recently added petroleum refinery wastes (K169, K170, K171, and K172). This exemption applies to landfill leachate and gas condensate subject to regulation under the Clean Water Act. The exempted leachate may not ordinarily be managed in surface impoundments or otherwise placed on the land after February 13, 2001, except for the purpose of providing storage under temporary or emergency conditions.

May 11, 1999/ 261,262,268/ This rule clarifies and/or makes technical corrections to the following five final rules published by EPA: (1) May 12, 1997, regulations promulgating Land Disposal Restrictions (LDR) treatment standards for wood preserving wastes, as well as reducing the paperwork burden for complying with LDRs; (2) May 26, 1998, regulations promulgating LDR treatment standards for metal-bearing wastes, as well as amending the LDR treatment standards for soil contaminated with hazardous waste, and amending the definition of which secondary materials from mineral processing are considered to be wastes subject to the LDRs; (3) August 31, 1998, an administrative stay of the metal-bearing waste treatment standards as they apply to zinc micronutrient fertilizers; (4) September 4, 1998, an emergency revision of the LDR treatment standards for hazardous wastes from the production of carbamate wastes; and (5) September 24, 1998, revised treatment standards for spent aluminum potliners from primary aluminum production .

May 14, 1999/ 260/ This rule approves use of EPA Method 1664, Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated N-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry (hereafter Method 1664) by reference for use in EPA's Resource Conservation and Recovery Act (RCRA) programs.

The rule also deletes Method 9070 and adds revised Method 9071B as Update IIIA to the Third Edition of the EPA-approved test methods manual SW-846.

July 6, 1999/ 260,261,264,265,268,273/ This rule adds spent hazardous waste lamps to the list of universal wastes. Handlers of universal wastes are subject to less stringent standards for storing, transporting, and collecting these wastes.

October 20, 1999/ 261,262,268/ Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters

January 14, 2000/ 261/ Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion: BWX Technologies, Inc.'s Lynchburg, Virginia facility.

February 23, 2000/ 261/ Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion: Chaparral Steel Midlothian, L.P.

March 8, 2000/ 262/ 40 CFR Part 262 180-Day Accumulation Time Under RCRA for Waste Water Treatment Sludges From the Metal Finishing Industry; Final Rule

March 17, 2000/ 261,268,271/ Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule

May 22, 2000/ 261/ (No text change)40 CFR Part 261 Regulatory Determination on Wastes from the Combustion of Fossil Fuels; Final Rule

June 8, 2000/ 261,268/ Organobromines Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments

## Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency .including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

The Board of Waste Management approved Amendment 15 C on July 11, 2000 as a final regulation, a revision of "9 VAC 20-60-18, Hazardous Waste Management Regulations, Applicability of incorporated references based on the dates on which they became effective" as evidenced by the following resolution:

Whereas, on December 10, 1998, the Virginia Waste Management Board adopted Amendment 14 to the Hazardous Waste Management Regulations, 9 VAC 20-60-10 et seq. as its regulations;

Whereas, Amendment 14 to the Hazardous Waste Management Regulations incorporated, with exceptions, the text of federal regulations located in Title 40 of the Code of Federal Regulations;

Whereas, Amendment 14 to the Hazardous Waste Management Regulations, at section 9 VAC 20-60-18, specified that the text of incorporated federal regulations be that text as it existed on July 1, 1995, with the exception of changes appearing in nine Federal Register publications cited by dates of publication;

Whereas, § 10.1-1402 of the Code of Virginia implies a desire to have a correspondence between Commonwealth regulations and similar federal requirements regarding the management of hazardous waste;

Whereas, it is easier to understand and use the incorporated federal text contained in the Commonwealth's regulations when the date of the text that is incorporated is as current as possible;

Whereas, Part 271, particularly Section 271.4, of Title 40 of the Code of Federal Regulations requires that authorized hazardous waste management programs of the states have essential statutory and regulatory requirements consistent with current federal requirements.

Therefore, the Virginia Waste Management Board adopts the attached amendment to 9 VAC 20-60-18, a portion of the Virginia Hazardous Waste Management Regulations, and directs the staff to finalize this action in accordance with § 9-6.14:4.1 C. 4. (c) of the Code of Virginia. The Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

## Additional Information

*Please indicate that the text of the proposed regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.*

*Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law. Note that the OAG's certification is not required for Marine Resources Commission regulations.*

*If the exemption claimed falls under § 9-6.14:4.1(C) (4)(c) of the APA please include the federal law or regulations being relied upon for the final agency action.*

***A copy of Amendment 15 C, the final regulation, is attached; there are no forms associated with the action; and the only incorporated material is from the U. S. Code of Federal Regulations. The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the regulation and that it comports with applicable state and/or federal law. Part 271, particularly Section 271.4, of Title 40 of the Code of Federal Regulations requires that authorized hazardous waste management programs of the states have essential statutory and regulatory requirements consistent with current federal requirements.***

### Family Impact Statement

***Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.***

There is no impact on the institution of the family or family stability.